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# PANAMA CANAL TOLLS

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SPEECH

OF

HON. THOMAS P. GORE

OF OKLAHOMA

IN THE

SENATE OF THE UNITED STATES

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The Senate had under consideration the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. GORE. Mr. President, the issue involved in this controversy is clear cut and unmistakable. It is not so obscure as seems to be the language of the Hay-Pauncefote treaty out of which it has arisen. It is simply this: Shall we repeal the act exempting our coastwise vessels from the payment of canal tolls? This issue, however, involves five distinct, yet related, questions: First, Is the remission of tolls equivalent to the granting of a subsidy? Second, Is the granting of a subsidy just as a matter of principle and wise as a matter of policy? Third, Is the Democracy bidden and bound by its platform to support such a subsidy? Fourth, Is the Government of the United States forbidden by treaty obligation to grant such a subsidy or discrimination? And fifth, Which is paramount—a platform promise or a treaty obligation?

Mr. President, that the remission of tolls is equivalent to a subsidy has not, indeed, been controverted. To ask that question is to answer it. No one would deny that, if the Government should first collect tolls and then return them to the shipowners, that would constitute a subsidy. The character of the transaction is not changed by the circumstance that the shipowners are allowed to retain the tolls in the first instance. The effect upon the General Treasury is the same. The effect upon the private treasury of the shipping concerns is the same. In both instances the shipowners receive and enjoy the money, and the people are taxed to supply the deficiency thus occasioned. That, sir, involves every element of subsidy.

We are not, however, left to mere speculation or to abstract reasoning upon this point. The whole matter is concluded by the very highest authority. Former President Taft, in a speech delivered in January last, used this conclusive language:

The idea of Congress in passing the bill and my idea in signing it was that we were thus granting a subsidy to our coastwise vessels.

No one will deny that, for once at least, former President Taft did not err. But, sir, I cite even a higher authority, an authority more commanding and more convincing. I refer to the senior Senator from the State of New Hampshire [Mr. GALLINGER]. That Senator has been the avowed apostle, he has been the acknowledged champion, of ship subsidy these many years. He has advocated such a policy certainly in season and, as some think, out of season. He was the chairman, I believe, of the Merchant Marine Commission; he prepared and submitted an elaborate report recommending that the Government

of the United States subsidize its vessels engaged in foreign commerce. I do not recall that he recommended a subsidy to our coastwise vessels.

During this debate my colleague [Mr. OWEN] asked the Senator from New Hampshire if the remission of tolls was not equivalent to the granting of a subsidy, and that Senator, with his accustomed candor, answered, "It is exactly the same thing." He did not say that it was the same in effect; he did not say it was analogous to a subsidy; but he said, with perfect truth, "It is exactly the same thing." Mr. President, it is the same thing. Both are gratuities out of the Public Treasury in behalf of private enterprise.

I share the regrets expressed by the Senator from New York and the Senator from New Hampshire as to the disappearance of the American flag from the seven seas. That flag never will be restored to its former glorious position until our antiquated navigation laws are repealed.

Mr. President, it is true that other nations subsidize their vessels engaged in foreign commerce. It is true that other nations tax their people to pay our freight. Against that policy I enter no protest; but I am not willing to tax the American people and subsidize our seagoing vessels in order to pay or to reduce the freight of the foreigner.

I am not aware that any nation grants a subsidy to the vessels engaged exclusively in its coastwise commerce. As far as I know, this is a new subsidy under the sun.

I do not intend, however, to embark upon a general discussion of the subject of ship subsidies. That grain and that chaff have been winnowed often in the Senate. Both the subject and the Senate have been exhausted time and time again "with vain repetition." I come immediately to the question before us: Shall we grant this subsidy to our coastwise vessels passing through the Panama Canal?

It is estimated that the cost of maintenance, operation, and interest charges in connection with the Panama Canal will aggregate some fifteen and a quarter million dollars yearly. It is also estimated that the tolls paid by our coastwise commerce would amount to \$1,200,000. Now, sir, the question is, Shall the people pay this \$1,200,000, or shall the shipowners who use the canal pay this \$1,200,000?

Mr. President, if the Senator from New York is correct in the assertion that the tolls would aggregate \$200,000 instead of \$1,200,000 yearly, then, sir, the more is the shame that we should barter our principles and surrender our convictions for such a miserable mess of pottage as that.

Without reference to the amount, whether it be \$1,200,000 or \$200,000, this is the question: Shall we exempt the people and tax the ships or shall we exempt the ships and tax the people to maintain this canal?

That, sir, is the question. For my part, I cast my choice with the people. I would not consent to remit these tolls if I knew that the benefits of such a remission would be shared equally by the producers and the consumers using the canal. I would not consent to the remission of these tolls if I knew that the benefits would be transferred to the producer in the form of higher prices upon what he sells, or transferred to the



consumer in the form of lower prices upon what he buys. Why tax the American people in order to lavish this favor upon any class of consumers or any class of producers merely because their goods chance to pass through this canal?

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Montana?

Mr. GORE. I yield.

Mr. WALSH. I am constrained to inquire of the Senator from Oklahoma what policy he would advocate with reference to the Soo Canal or the Erie Canal?

Mr. GORE. Mr. President, I do not intend to detour at this time through either one of those canals. I am addressing myself now to this particular subsidy, which, unfortunately, has the support of the distinguished Senator from Montana, for whom I entertain the highest admiration.

I do not believe the benefits of this exemption would be shared in any measure either by the producers or by the consumers of this country. Those benefits would be absorbed by our coastwise shipping monopoly, which already has been loaded down with favors at the hands of the National Government. Water transportation is so cheap in its nature that the coastwise vessels could underbid the transcontinental railroads for the competitive traffic.

It is true, as the Senator from New Hampshire asserted, that our coastwise vessels to-day enjoy exclusive privileges. They constitute an absolute, a universal, an ironclad, and an airtight monopoly. Many people do not know how absolute this monopoly is. Many American citizens do not know that no foreign vessel can engage in our coastwise commerce. Many do not know that the proudest English ship that sails the sea can not receive a bale of cotton at Galveston and deliver that bale of cotton at New York. That is reserved for our favorite coastwise shipping. Many people do not know that no ship flying the German flag can take on a bolt of calico at Boston and "deliver the goods" at New Orleans. That, sir, is reserved to the coastwise monopoly, a legalized monopoly, a statutory trust, and the violation of its privileges is a crime under the laws of the land.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Missouri?

Mr. GORE. I yield.

Mr. REED. The Senator is on a theme that touches me very closely, because I have introduced an amendment opening the coastwise business of the United States to the ships of all nations. In view of the fact that the present coastwise business is so thoroughly monopolized, as the Senator describes, I wish to ask him if he will not give his support in helping to break that monopoly?

Mr. GORE. Mr. President, I never differ from the Senator from Missouri when the Senator is right, and the Senator is nearly always right.

Mr. GALLINGER. Mr. President——

Mr. GORE. When I differ from him I suspect the correctness of my own views and my own position. In this instance I do not differ. I think that every ship that sails the seas ought

to be allowed to receive cargoes at New York and discharge them at San Francisco. Then the monopoly will be undone and coastwise freight rates will be reasonable. I would not do so overnight. I think the change should be gradual, so as to avoid needless dislocation and allow time for readjustment.

Mr. GALLINGER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I yield.

Mr. GALLINGER. Does not the Senator think if we put our coastwise vessels in competition with foreign vessels that the coastwise industry would share the same fate that has come to our over-seas shipping?

Mr. GORE. Mr. President, that is exactly the reason why I suggested the limitation in answering the Senator from Missouri.

Mr. President, the Government has not only invested our coastwise ships with monopolistic power, but it has permitted the abuse of that power.

Compare the freight rates between our coastwise vessels and vessels that are obliged to meet the competition of the world.

Bagging from New York to New Orleans is 35 cents a hundred, from Liverpool to New Orleans  $17\frac{1}{2}$  cents a hundred. The rate on wire and on cotton ties from New York to New Orleans is 35 cents; from Liverpool to New Orleans  $13\frac{1}{2}$  cents a hundred. The distance from Liverpool to New Orleans is three times as great as from New York to New Orleans, yet the coastwise rate is three times as much as the foreign rate.

Sir, that is not all. Take the rate on plows. From New York to Wilmington, a distance of 550 miles, the rate is 15 cents a hundred pounds; to New Orleans, 35 cents a hundred; to Argentine ports, 6,000 miles away,  $49\frac{1}{2}$  cents a hundred; to Cape Town, in South Africa, 42 cents a hundred; and to Shanghai, 12,500 miles away, 58 cents a hundred.

Compare the rate on dry goods. From New York to Wilmington, 550 miles, 50 cents a hundred; to New Orleans, 1,700 miles, 70 cents a hundred; to Shanghai, 12,500 miles away, 60 cents a hundred. Shanghai is twenty times as far from New York as Wilmington, yet the rate is only 10 cents a hundred more, and it is 10 cents less a hundred to Shanghai than to New Orleans.

Mr. President, of course competitive conditions affect these rates in some measure, but they do not justify and they do not account for this enormous disparity.

Now, the Congress of the United States is asked to confer an additional subsidy on this favored monopoly at the expense of the overburdened taxpayers.

Mr. President, the opponents of the pending measure reached the very summit of their indignation, patriotism, and defiance when they hurled this gauge at our feet: Have we not expended \$400,000,000, they say, to construct this canal, and can we not then exempt our own vessels from the payment of tolls?

As a matter of course, the Government of the United States will not pay tolls upon the vessels belonging to the Government. But, Mr. President, it is true that we have taxed the American people \$400,000,000 to construct this canal. Shall we now tax the American people millions of dollars every year in order to



maintain the canal for the use and enjoyment of a legalized monopoly? Is it not enough to tax the people \$400,000,000 to construct this great highway? Can not the beneficiaries afford to pay for maintenance and operation. Shipowners and Senators who complain that the American people ought to be taxed to maintain this great highway after having been taxed \$400,000,000 to construct it are a good deal like the woman who borrowed her neighbor's bonnet and then complained because it did not suit her complexion.

It may be true that those in authority in 1900 and 1901 drove a bad bargain when they negotiated and ratified the Hay-Pauncefote treaty. I do not undertake to pronounce judgment upon that point at this time. The question now is not whether the Hay-Pauncefote treaty was wise or whether it was the best possible treaty. My only contention is that it is the treaty, and it ought to be observed both in letter and in spirit. I doubt not that when the canal becomes a going concern the tolls will equal the cost of maintenance, operation, and interest charges. I hope the receipts may ultimately amortize the debt and return to the Treasury the \$400,000,000 that can be applied to other useful and beneficent improvements.

Congress recently appropriated \$35,000,000 to construct a railroad in Alaska. Do Senators on the other side think that this railway, constructed at public expense, should be open to all American railroad companies free of tolls? Is there any reason which would justify the passage of a ship through the canal without charge that would not justify the passage of a locomotive and train over this railroad without charge?

Mr. President, is the Democratic Party bound by its platform to grant this subsidy to our coastwise vessels? It is true that the Baltimore platform contained a plank declaring that coastwise vessels shall be allowed to pass through the canal without the payment of tolls. The promise is explicit. The promise is unequivocal. The promise is not shrouded with mist and fog. The promise is as luminous as a desert sun at noontide. Indeed, sir, the promise is as clear and as unmistakable as the language of the Hay-Pauncefote treaty.

Mr. President, we did make the promise. Shall we now break the promise? That is the point. I have been among those who have attached the greatest weight, and I may say the greatest sanctity, to platform pledges. I regard a platform as a covenant between the party making it and the people approving it. Yet I have never gone so far as some. I have never hedged a convention about with any sort of divinity. The doctrine that a convention can do no wrong is as dangerous as is the doctrine that a king can do no wrong. This instance demonstrates the danger of such a dogma.

Mr. President, I am impelled by reasons I believe to be just and justifiable not to keep the pledge. I assume the responsibility; I accept the consequences; yet those who are disposed to do so can plead extenuating circumstances in their behalf. The platform contained a pledge that coastwise vessels should be allowed to make the transit through the canal untaxed. Democratic Senators who vote against repeal undoubtedly have in that plank a plea that will be accepted in the court of public opinion. But, Mr. President, Democrats who vote for repeal,

Democrats who vote against the continuance of this subsidy, will find another plank in this platform which sustains and which justifies their course of conduct. The Democratic platform contains a clear-cut and explicit declaration against the granting of ship subsidies. That is the ancient, the accepted, the immemorial faith of democracy. The Democratic platform of 1904 fulminated a denunciation against ship subsidies; the Democratic platform of 1900 announced the faith of the fathers, a declaration against the granting of bounties and subsidies to American shipping. That, sir, is the traditional doctrine of the Democratic Party, and upon that doctrine stand those Senators who cast their vote for the pending bill.

Mr. President, there have always been two schools of thought in the United States touching protective duties, touching the granting of favors, bounties, subsidies, and privileges. The Republican Party has uniformly maintained that principle. The Democratic Party has uniformly stood out in favor of the principle of justice and equality and against the policy of privileges and of subsidies. That the heart of Democracy is still true to the faith is abundantly proven to-day. The vote in the other House in favor of repeal, the vote in the other House against this subsidy, was at the ratio of 4 to 1 amongst the Democrats. The heart of Democracy is still true to the principles of justice. The vote in this Chamber, I doubt not, amongst the Democrats, will be in the ratio of 4 to 1. The heart of Democracy still beats in sympathy with the unprivileged masses in an unequal contest with the privileged classes. This fact is proven by the circumstance that 713 delegates to the Baltimore convention have signified their support of the pending bill, and only 126 of those delegates have signified their opposition to the pending bill. This ratio is 5 to 1. Counting all who were silent as adverse, the vote of the delegates would be in the ratio of 2 to 1 in behalf of the traditional principles of the Democratic faith. I base these statements on a poll of the delegates which I have recently made. This, I say, proves their continued devotion to these accepted and recognized standards of justice and equality.

Democrats who desire to do so can plead the doctrine of ultra vires that the convention exceeded its powers. Could a Republican convention by declaring in favor of free trade and tariff for revenue only bind its membership to that principle? Would such a declaration bind the conscience and the conduct of lifelong Republicans who were devoted to the policy of protection? Sir, I mean no disrespect, but could a conference of the Methodist Church, could a convention of the Baptist or Christian Church, could a council of the Catholic Church renounce and adjure the Apostles' Creed and commit its membership to the philosophy of negation? Would such an attempt be binding either upon the conscience or the conduct of a Christian congregation? Could a Democratic convention by declaring in favor of a protective tariff bind its membership to that Republican fallacy? Can you thus convert the apostles of equal justice into the champions of special favors?

Mr. President, to the Democracy the upas tree of privilege is the tree of death, not the tree of life. Its deadly fruit is the forbidden fruit. I must say that I marveled when I discovered that this cuckoo egg of subsidy was in the Democratic nest of



equality. I must beware when I see this Republican horse freighted with destruction introduced into the citadel of Democracy.

Mr. President, there is still another reason justifying Democratic Senators in withholding their support from this plank of the Baltimore platform. Whatever may be said of the platform pledge, of its solemnity, and of its binding effect upon individual Democrats, in so far as the British Government is concerned, it was an ex-parte proceeding.

The Government of the United States is bidden, it is bound by solemn treaty obligations, to equal treatment and to equal tolls as among all the nations of the earth in respect to the Panama Canal. Mr. President, let it be remembered here that the Clayton-Bulwer treaty was entered into upon the initiative of the United States, and not upon that of Great Britain. In 1850 Great Britain maintained a protectorate over the strip of territory including the mouth of the San Juan River in Nicaragua. That point was regarded as indispensable to the construction of an interoceanic canal. The seizure of Tiger Island that year precipitated a crisis in the international relations between the United States and the Government of Great Britain. Out of that crisis came the Clayton-Bulwer treaty. It composed all the differences then existing between the two Governments.

It can not be denied that article 8 of the Clayton-Bulwer treaty embodies the principle of neutrality and the principle of equality. It provides that the canal shall be open to the citizens and subjects of the United States and Great Britain on equal terms. No one will deny that if the canal had been constructed under the Clayton-Bulwer treaty it would have been impossible for the United States to have discriminated in favor of its coastwise shipping.

It must also be remembered that the Hay-Pauncefote treaty was entered into not upon the initiative of Great Britain, but upon the motion of the United States. During the course of that correspondence Lord Lansdowne declared that Great Britain had no desire to secure a modification of the Clayton-Bulwer treaty. The principle of neutralization embodied in the eighth article of that treaty was imported into and made a part of the Hay-Pauncefote treaty.

Now, Mr. President, what is the controverted language in the Hay-Pauncefote convention? It is this:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Mr. President, what is the historic background in accordance with which that language must be interpreted? A long and illustrious line of Secretaries of State, from Henry Clay to John Hay, have given expression to the traditional policy of this Government. As far back as 1825 Henry Clay, then Secretary of State, declared that the benefits of a trans-Isthmian canal "ought not be exclusively appropriated to any one nation."

Secretary of State Clayton, who assisted in the negotiation of the treaty bearing his name, entertained the view that the canal should be as open as the high seas.



President Taylor, Chief Executive when the Clayton-Bulwer treaty was negotiated, declared in a message to Congress that the canal "ought to be dedicated to the common use of mankind."

That, sir, was before the spirit of monopoly was so rampant in this Republic.

Mr. Cleveland declared that the proposed canal had been consecrated to the common use of mankind.

John Hay subscribed to the principle of neutralization and equality.

Mr. President, the best review of our traditional policy of neutrality and equality is contained in the Republican campaign book for the year 1900. It reviews the language of these distinguished statesmen, these distinguished Secretaries of State; it demonstrates why the principle of equality could not have been abrogated in the first Hay-Pauncefote treaty, then pending before the Senate. It is elaborate; it is comprehensive; it is illuminating; it characterizes the position of the Democratic Party at that time as born either of ignorance or of willful disregard for our solemn contractual relations. In regard to the principle of neutralization it uses this powerful language:

This has been the uniform and unchanging policy of the Government of the United States from the very beginning. It has never had any other thought or purpose than to open this interoceanic waterway to the use of all nations upon equal terms.

"To the use of all nations upon equal terms." The Democratic platform in 1900 characterized the Hay-Pauncefote treaty then pending as "a surrender of American rights and interests, not to be tolerated by the American people," but it did not impinge, it did not challenge the principle of neutralization or equality. The Democratic campaign book of 1900 used this clear-cut and unmistakable language:

No one can deny that an interoceanic canal should be open to all commerce on equal terms. It is beneath the dignity of the United States to discuss it with any other power in any other phase.

Nobody dreamed at that time that the United States had the power to discriminate when the treaty said there should be no discrimination.

But, Mr. President, what did the plenipotentiaries of the United States, what did the representatives of the United States in this negotiation think that they said, what did they think that they meant by the use of the language in the Hay-Pauncefote treaty? Their testimony is uniform and unvarying. Joseph Choate was at that time ambassador to the Court of St. James. He says that—

The language of the treaty excludes the possibility—

Excludes the possibility, mark that—

of any discrimination in favor of any American vessel, excepting ships of war in time of war.

Mr. President, that is tolerably clear; we at least understand what he was driving at; we understand what he thought he was saying and what he thought he meant. Mr. Henry White was for a time during the negotiations American chargé d'affaires. What does Mr. White say? He says that it was his understanding, and, as he thinks, the understanding of Lord Lansdowne, Lord Salisbury, and Lord Pauncefote, from the beginning to the end of the negotiations, that there was to be

no discrimination in favor of American vessels, not even coast-wise vessels. That is what Mr. White thought he said during those negotiations; that is what he thought he meant, before Senators came to enlighten him as to his real intents and purposes.

What did John Hay, then Secretary of State and a fairly good master of correct English, imagine that he was saying and meaning when he gave consent to the Hay-Pauncefote treaty? Mr. Hay was one of our most illustrious Secretaries of State and received his baptism in politics as confidential secretary to Abraham Lincoln, the greatest President between Jackson and Wilson. I shall quote Mr. Hay's exact language a little further on. Let me now analyze the mysterious, the obscure, the mystifying verbiage in the Hay-Pauncefote treaty. We begin with the first clause in the mooted article:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

Mr. President, from the very threshold we are plunged into impenetrable darkness. "All nations." What can that phrase possibly mean? "All" is an obscure word. It is vague, indefinite, uncertain. It is as indefinite as space itself. Where does it end? If we only know that "all" meant "all," we should be freed from perplexity, but who will be so bold as to suggest in this presence that "all" means "all"?

There was one so audacious as to attribute to the word that definition. That was Secretary John Hay. He undertook to define it. He said, "'All' means 'all.'" He said, "The treaty was not so long that we could not have said 'all other nations' if that had been the meaning." He then adds, with presumption, "'All nations' means 'all nations.'" But who would undertake to balance the authority of John Hay, whose name this treaty bears, with the advocates of subsidy and monopoly who have now come to judgment? These great linguists and diplomatists could have put all doubt to death by simply saying "all nations and then some."

But we proceed, amid the fog and the obscurity, to the second clause:

The canal shall be free and open to the vessels of commerce and of war of all nations—

How?

on terms of entire equality.

Here our bewilderment becomes more wildering—"on terms of entire equality." If we only knew that "entire" meant "entire," our feet would rest upon an unruven rock. But, sir, who will venture such an interpretation? "On terms of entire equality." Senators say that "entire" does not mean "entire"; and who will challenge such high authority?

We proceed. Doubts peep over doubts and clouds on clouds arise.

The third clause:

The canal shall be free and open to the vessels of all nations on terms of entire equality—

Why?

So that there shall be no discrimination against any such nation, or its citizens or subjects.

Here is confusion worse confounded. Here we heap shade upon shadow. Cimmerian darkness, contrasted with this Del-



phian oracle, were as sunlight unto moonlight, nay, as noontide unto midnight.

So that there shall be no discrimination.

Now, they could have made it stronger than that if they had seen fit. The question immediately springs into every Senator's mind, "Does 'no discrimination' mean 'no discrimination'?" If it does, there the controversy may rest; but I am not commissioned to say that "no discrimination" means "no discrimination."

Mr. President, we must let some Daniel come to judgment; some one who can interpret the dream of the King without having heard the King's dream. Mark this bewildering confusion: "All nations," "entire equality," "no discrimination."

About, about in reel and rout,  
These doubtful phrases thread the mazes of the misty dance.

From this time forth let Talleyrand's paradox be taken as a truism, that the object of language is to conceal thought.

We close our eyes and call it night;  
We grope and fall in seas of light.

There are two historic incidents that shed much light upon this question and illuminate the pathway of our duty. Senator Bard, of California, offered an amendment to the first Hay-Pauncefote treaty which reserved, in express terms, the authority to exempt from the payment of tolls our coastwise vessels. That amendment was rejected by an overwhelming majority. Great Britain had a right to understand that action on the part of the Senate as a reaffirmation of our traditional policy in favor of equality of treatment and in favor of equality of tolls. Senators say, however, that the Bard amendment was rejected because it was unnecessary. Senators say that the Bard amendment, reserving the express authority to exempt from tolls, was rejected because the power was involved and implied in the terms of the treaty itself.

Sir, that was a fastidious parsimony of words which ought to warn all statesmen of the future to be exact, even at the peril of being extravagant.

Mr. KERN. Mr. President, does the Senator desire to conclude this evening?

Mr. GORE. Yes. It will not take me very long.

Great Britain rejected the first Hay-Pauncefote treaty. The prizes which it held out were not so alluring as to secure her ratification nolens volens. Can any Senator imagine that Great Britain would have ratified the second Hay-Pauncefote treaty if it had contained the Bard amendment? Does any Senator imagine that Great Britain would have ratified this treaty if she had suspected that the United States intended to depart from its traditional policy in favor of equal treatment and equal tolls?

There is another historic incident which shoots a ray of light into the blackness. In 1884 the United States negotiated a treaty with the Republic of Nicaragua. The treaty was never ratified, yet it is significant. It is known as the Frelinghuysen-Zevalla treaty. Under the terms of that treaty Nicaragua conceded to the United States the right and authority to construct a canal across her territory and to own the canal. It was to be

operated under a board of management appointed by the two contracting Governments.

Mr. President, in article 14 of this treaty I find the following salient and significant language, which Senators will mark:

The tolls hereinbefore provided shall be equal as to vessels of the parties hereto and of all nations, except that vessels entirely owned and commanded by citizens of either one of the parties to this convention and engaged in its coasting trade may be favored.

This secured equality of tolls in all international commerce between the United States, Nicaragua, and all other nations; but as to our coastwise trade we expressly reserved the power to exempt those vessels from the payment of tolls. We had a treaty subsisting many years with Great Britain assuring neutrality and equality. When the Hay-Pauncefote treaty was negotiated Great Britain had before her eyes this rejected treaty between the United States and Nicaragua. Great Britain had a right to believe that if the United States intended to renounce the principle of equal treatment the United States would have the candor and would have the courage to say so, as they did say in the Frelinghuysen-Zevalla treaty.

As if to anticipate this very discussion, as if they caught glimpses of coming events, the British negotiators suggested this article in the Hay-Pauncefote treaty:

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Our subsequent acquisition of the Panama Canal Zone does not relieve us from our solemn covenant to maintain entire equality of treatment to all nations observing the stipulated rules.

Mr. President, Great Britain, especially in the esteem of some Senators here, enjoys the reputation of being a pretty shrewd bargainer. What did Great Britain get under the Hay-Pauncefote treaty? What did she get in return for the concessions made by the abrogation of the Clayton-Bulwer treaty? All this labored language, all this iteration and reiteration of assurances as to equality and discrimination comes to this, that Great Britain was simply insisting that the treaty should be so written that she never could receive at the hands of the United States any favor, any advantage, any consideration, any return for the abrogation of the Clayton-Bulwer treaty.

It would have been infinitely better for Great Britain had she merely insisted upon the insertion of the "favored-nation" clause, a proviso that the vessels of Great Britain should be as favorably treated as the vessels of the most-favored nation. That would have given her all the equality, all the guaranties against discrimination, which she enjoys under the Hay-Pauncefote treaty, and it would not have foreclosed the possibility of her receiving some favor in the future for her generosity in the abrogation of that convention. It would have left at least the opportunity for the United States to bear witness to their appreciation of Great Britain's magnanimous action in revoking the Clayton-Bulwer treaty, the abandonment of her demand for equal treatment.

Mr. President, if this be true, Great Britain gave one other indication either of treachery or of stupidity that can hardly



be imputed to that ancient and enlightened Government. Great Britain agreed to renounce the guaranties of equality and subjected her own commerce to serious discrimination, and abandoned the coastwise trade of the Dominion of Canada to an impossible competition against the coastwise trade of the United States.

Let me cite one or two instances. Let us say that a vessel receives at Liverpool a cargo of dry goods and structural steel, bound for some port in Japan. It passes through the Panama Canal and pays, let us say, \$15,000 toll. It is desired in New York to ship dry goods and structural steel to the same port in Japan in competition with the English goods. A vessel engaged in our coastwise trade receives the cargo at New York, passes through the canal toll free, touches at San Diego, Cal., and there the cargo is transshipped to another vessel, owned perhaps by the same concern, and is delivered at its destined port in Japan without having paid tribute for passing through the canal. That would be coastwise trade from New York to San Diego; and can we provide guaranties that such cargoes shall never be shipped beyond the seas?

Take another instance. A Canadian ship clears at Halifax, bound for San Francisco. It pays, let us say, \$10,000 toll in transit through the canal. Another ship, bound to the same point, laden with a similar cargo, clears at New York, bound for San Francisco. It passes through the canal tax free. Is not that intolerable competition?

Reverse the voyage. A Canadian ship takes on a cargo of grain and of lumber at Vancouver, makes a passage through the canal, paying \$10,000 in tolls, and delivers its cargo at New York. An American vessel receives grain and lumber at Port Townsend or Seattle, Wash., passes through the canal without the payment of tolls, and delivers its cargo in New York in competition with the Canadian vessel.

Mr. President, what will be the first result of the situation which I have just described with respect to Vancouver and Seattle? The first result will be that wheat and lumber produced in British Columbia would be diverted from Vancouver and would be shipped by rail to Port Townsend or Seattle and then shipped by American coastwise vessels to our Atlantic seaboard cities. The second result would be that the Dominion of Canada would impose an export duty or a prohibition on the shipment of goods from Canada into the United States. Carlisle's observation that "Injustice begets injustice," is as true as truth.

We must not subject ourselves to the criticism or the suspicion that our principles change with our interest or vary with our situation. This is not the first controversy we have ever had concerning the definition of the phrase "equal treatment," as contained in an international treaty. The United States and Great Britain entered into a treaty in 1871 known as the treaty of Washington. Under the 27th article of that convention equal treatment was guaranteed to the citizens of the United States and to the inhabitants of Canada in regard to the canals in their respective territories connecting the waters of the Great Lakes. Canada passed a law imposing a toll of 20 cents per ton on all vessels passing through the Welland Canal. She provided, how-

ever, that vessels carrying cargoes as far east or farther east than Montreal should be entitled to a rebate of 18 cents per ton. President Cleveland protested that this refund or subsidy violated the guaranty of equal treatment to the citizens of the United States. President Harrison reiterated this protest. Congress enacted a law authorizing the imposition of retaliatory tolls. Canada receded from her position. Her canals are free and open to citizens of the United States upon equal terms with her own inhabitants. Does the reciprocal pledge of equal treatment bind the other nation alone, and is it to our Government fragile as a rope of sand? It is no special credit, either to an individual or to a nation, to observe a contract when it is highly advantageous to do so. That imposes no strain either upon the private or the public conscience. The easiest morals could assume that virtue. Good faith at 5 per cent were a delightful duty. It is they who keep the faith when the advantage is doubtful or adverse that are entitled to the confidence and admiration of mankind.

Mr. President, this question arises now, Which is paramount, the obligation of a platform promise or the obligation of a treaty? Surely this question is not open to controversy. Under the Constitution of the United States the Constitution itself and the laws and treaties made in pursuance thereof are the supreme law of the land. This treaty is the supreme law of the land. The Baltimore platform, strange as it may seem, is not in every particular the supreme law of the land. No one can hesitate as to the path of duty when a platform comes into collision with a treaty obligation.

Let me digress for one moment at this juncture. I have been much amused at the bombastic bravado manifested by certain Senators when engaged in the luxurious pastime of baiting the British lion. I shall do no more than allude to that splendid and entertaining pantomime, but I remember that Tam O'Shanter's wife had to nurse her wrath to keep it warm. I think that these irate Senators must have placed their hereditary wrath in cold storage this century past in order that it might flame out into incandescent fury on this occasion. I remember that the heroism of Sir John Falstaff was in direct proportion to the square of the distance between himself and his embattled enemies.

Mr. President, if I may be pardoned for so saying, I am Irish in lineage, I am Irish in sympathy, and, sir, if you please, I am Irish in my antipathies. I hope to see the hopes of Ireland gratified in the realization of home rule. While I may have no right to express such an opinion, the greatest disaster that could befall Ireland would be the fall of the present British ministry.

Mr. President, reverting to the obligations of our treaty, the United States can not afford to sacrifice the high and justified reputation it has always borne for faithful, for scrupulous observance of each and every such obligation. One Senator took occasion the other day to defend the United States against the supposed imputation that they had not been faithful to their treaty pledges. Sir, the United States needs no such defense. Their record and their reputation are not only above challenge, they are above suspicion. We can not afford to sacrifice our



fair fame for fair dealing by the repudiation of a solemn, ratified obligation.

Mr. President, good faith is to a nation what honor is to a man and what chastity is to a woman. It is the one virtue without which all other virtues are unavailing.

Mr. President, during the course of this discussion it has been said, regretfully by some and rejoicingly, if I may so say, by others, that the pending bill is the rock upon which the Democracy must split. While I am no mariner, I anticipate no such disaster. Senators who feel bound by the platform and oppose the pending measure have ample justification, and they will receive no criticism at the hands of their associates here or at the hands of their constituencies at home. Senators who feel bound by treaty obligations to disregard the Baltimore platform have a justification that will exempt them from criticism by their Democratic colleagues here and their constituencies at home.

Mr. President, it has been said that the President of the United States has reversed his views touching the remission of tolls. He has been impeached for inconsistency. It sometimes requires more courage to be right than to be consistent. I have no doubt that the present Chief Magistrate of this Republic would rather be right than be consistent.

The President is not one to change his matured convictions for light and transient causes. When he recanted his former utterances and renounced his former views we must assume that he was impelled by reasons not only of the most patriotic but of the most overpowering character. Under our Constitution he is peculiarly charged with the direction of our international relations. He possesses information upon the subject more intimate than that to which any Senator can pretend. For my part, when I receive such solemn assurances at his hands as were contained in his message in relation to the pending bill I am disposed to follow his leadership.

Mr. President, the present Democratic administration is dedicated to the rights of man. I may say it is consecrated to the rights of man. It came into power as a revolt against privilege and monopoly, as a revolt against ancient abuses. The present administration came into power pledged to a revision of the tariff. It has kept the faith. The present administration came into power pledged to a revision of our banking and currency system. The party has kept the faith. It came into power pledged to dismantle existing monopoly and to emancipate the American masses from the thralldom and from the tyranny of the trusts. The party will keep the faith. The Democracy is entitled to receive and so long as it is entitled it will continue not merely the passing plaudits but the deep and enduring approbation of the enlightened citizenship of this Republic.

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### The Tariff.

[Extract from speech delivered August 5, 1909.]

For my own part, I confess I am ambitious to see the United States become the leading commercial, industrial, and financial nation of the world. Our natural resources entitle us to that primacy. It is only our shortsighted policy in restriction and

prohibitions of trade which have cheated us of that splendid destiny.

I am not among those who think that it would be better for this Republic, instead of having a resourceful country to our northward, like Canada, to have a frozen and fruitless sea. I am not among those who think it would be better, instead of having a rich region to our southward, like the Republic of Mexico, if we had a burning and a barren desert.

I agree with President McKinley when he said the age of trade wars had passed and the age of reciprocity had come. For my own part I would strike the shackles from the feet of the United States. I would not put the American eagle in a cage and then marvel why he does not fly to all the markets of the world. Primacy, financially, commercially, and industrially is the goal and destiny which for my part I would set before the eyes of younger America and the younger Americans.

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